

## THE GST ANTI-PROFITEERING CLAUSE: CURRENT SCENARIO AND WAY FORWARD

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### ABSTRACT

India has witnessed significant changes in its taxation regime- the major transformation being the implementation of the Central Goods and Services Tax Act (CGST), 2017. To reap the benefits arising out of the reduced taxes, an anti-profiteering clause was introduced under Section 171 of the CGST Act, 2017. By virtue of this clause, a system of checks and balances has been imposed on the producers. This ensures that the benefits reach the consumers and the surplus does not lead to extra profits for the suppliers. Further, this aspect leads to an interplay between the GST regime and the Anti-trust law that aims at reducing the prices for consumers. This is because GST is expected to eventually bring down prices, but this would not be possible unless there is a check on the activities of the firms. Most businesses would enjoy unjust enrichment in terms of profit arising out of implementation of GST in India and not pass the benefit to the consumers. Though the anti-profiteering measure has been incorporated with the sacred intention of benefiting a customer and monitoring the inflationary impact of GST, it is likely that this may end

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into an “inspector raj” and unwarranted inspection of business policies. The National Anti-Profiteering Authority has not done anything significant to set up any kind of deterrence. Conversely, it is argued that its very presence is inimical to ease of doing business and a potential source of arbitrariness and harassment of companies. In such a scenario, it is best to rely on the mechanisms of the already established Competition Commission.

## INTRODUCTION

Uncertainty is like a necessary evil. It’s something that accompanies you when you attempt new things and prime yourself for bigger things.<sup>1</sup>

A speedy growth momentum is succeeded by modifying the taxation structure and enhancing the course of rationalizing the taxes. In the past few decades, India has witnessed significant changes in its taxation regime- the major transformation being the implementation of the Goods and Services Tax Act, 2017 (hereinafter referred to as “GST Act”). GST is a unified tax on the supply of goods and services which ensures uniformity of taxation rate from the producer to the ultimate consumer.

The GST Council, headed by the Finance Minister of India, is the governing body for the implementation of GST.<sup>2</sup> Prior to the enactment of the GST Act, the head of the GST Council, Arun Jaitley had proclaimed that, “once all other taxes are removed, the cascading effect is removed,

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<sup>1</sup> Wan Heng Choon, *GST and Anti-Profiteering-Tackling the Pricing Issue*, THE EDGE MALAYSIA (2014).

<sup>2</sup> INDIA CONST. art. 279A.

goods and services will become slightly cheaper”<sup>3</sup>. The Indian economy was also not expected to experience inflationary pressure post-GST implementation, as most items in the Consumer Price Index (CPI) were either exempt from GST or were anticipated to become cheaper. Thus, in order to ensure that the benefits arising out of the reduced taxes reach the consumers, instead of fetching additional profit to the suppliers, the anti-profiteering clause was introduced under Section 171 of the CGST Act, 2017.<sup>4</sup>

This step of introducing an anti-profiteering clause in the GST legislation was inspired by foreign countries like Australia, New Zealand, Canada etc. The rationale behind having the anti-profiteering clause is to prevent businesses from “profiteering” and to ensure that inflation did not exceed expectations given the change in tax systems.<sup>5</sup> Thus, the function of this clause is the same as the Competition Act, 2002 i.e. protecting the interests of the consumers from unfair trade practices.

This research paper is primarily divided into 5 parts. **Part I** provides an overview of the concept of GST by focusing on the aims and objectives of this legislation. **Part II** highlights the interplay between GST and competition law and the aspects that make them dependent on each other. It introduces competition law, its function and objectives and thereby link it with the current taxation system. **Part III** emphasizes upon

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<sup>3</sup> *Goods and Services Tax: All You Need To Know About The 'Revolutionary' Bill*, INDIA TODAY (Aug. 17, 2017), <https://www.indiatoday.in/india/story/gst-bill-all-you-need-to-know-about-good-and-services-tax-968499-2017-03-30> (last visited Feb. 20, 2019).

<sup>4</sup> R. Nair Sthanu, *Price Monitoring and Control under GST*, 52 ECON. & POL. WEEKLY (2017).

<sup>5</sup> Denis McCarthy, *GST and Anti-profiteering Measures – Challenges for Indian businesses*, GST SUTRA, <http://gstsutra.com/experts/column?sid=312> (last visited Dec. 27, 2018).

the situation of anti-profiteering legislations or clauses in Australia where the GST has also been recently implemented. **Part IV** would focus on the expected or probable consequences of the anti-profiteering clause in India while considering the working of the National Anti-Profiteering Authority. **Part V** comprises the researcher's analysis and observation of interlink between competition law and GST. It would also discuss the problems and solutions that would arise due to the anti-profiteering clause.

## 1. GOODS AND SERVICES TAX: AN OVERVIEW

The concept of Goods and Services Tax was first introduced by France in 1954 and at present it is followed by more than 160 countries.<sup>6</sup>

With the Rajya Sabha unanimously passing the Constitution (122nd Amendment) Bill 2014, on 3rd August 2016<sup>7</sup> the GST regime has also been introduced in India. Undoubtedly, after seventy years of independence, GST is one of the most innovative steps taken by the Government of India in the sphere of indirect taxation. Its introduction has provided a simpler and more transparent taxation system with enhancement of output and productivity of the Indian economy.

### 1.1 AIMS AND OBJECTIVES OF GST

One of the principal objectives of GST is to eradicate the cascading impact of taxes on production and distribution cost of goods and

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<sup>6</sup> *India's GST highest in the world: Here's what some other countries charge*, BUSINESS TODAY (2017), <https://www.businesstoday.in/current/economy-politics/indias-gst-highest-in-the-world-heres-what-some-other-countries-charge/story/255583.html> (last visited Jan. 18, 2019).

<sup>7</sup> Jaspreet Kaur, *Goods and Service Tax (GST) and Its Impact*, 2 INT'L J. APPLIED RESEARCH, 385-87 (2016).

services.<sup>8</sup> This has been done through the introduction of the concept of 'Input Tax Credit'. Input Tax Credit refers to a mechanism wherein the tax paid at an earlier stage can be utilized in paying taxes later.<sup>9</sup> The effect of GST can be effectively explained through the following table:

Activities	Cost Price	Value Added	Total	Tax @10% (Pre-GST)	Tax @10% with Input Tax Credit (GST)
Raw Material stage	--	100	100	10	10
Manufacturer stage	100+10 = 110	40	150	15	15-10= 5
Wholesaler stage	150+15 = 165	30	195	19.5	19.5-15= 4.5
Retailer stage	195+19.5=214.5	20	234.5	23.45	23.45-19.5= 3.95
Total tax liability				67.95	23.45

Due to the introduction of input tax credit system, the tax required to be paid on the final product under GST regime is only Rs. 23.45 instead of Rs. 67.95. Elimination of such tax on tax effect will dramatically

<sup>8</sup> Rajib Dahal, *Basic Concepts and Features of Goods and Service Tax in India*, SSRN ELEC. J. (2010).

<sup>9</sup> ARUN KUMAR, *GROUND SCORCHING TAX* 54 (2019).

enhance the competitiveness of original goods and services that would ultimately reflect in the substantial growth in Indian GDP. Moreover, GST would abolish the multiplicity of indirect taxation which would be beneficial for both the manufacturer and the ultimate consumer.

GST will also facilitate the “Make in India” campaign as it is instrumental in unifying the entire taxation system in India. The current structure unmakes India, by disintegrating Indian markets along state boundaries. These falsifications are the result by three features of the current system firstly, the entry tax applicable on inter-state goods sales, secondly, plethora of intra state taxes and thirdly, the extensive nature of countervailing duty exemptions that favor imports over domestic production.<sup>10</sup> Under the GST regime, a considerable amount of clarity has been introduced as majority of indirect taxes such as CST, VAT, Central Excise, Entry Tax etc. have been subsumed under it and the rates are uniform for all the states.

## **1.2 CHALLENGES TO BE FACED BY GST**

Any new legislation suffers a plethora of challenges in its implementation and GST is not an exception. A major challenge in its implementation relates to fixing the ‘optimum threshold limit’ for turnover above which GST would be levied. If the threshold limit is low, it would impact the small-scale traders and service providers. On the other hand, if this limit is high, it would lead to less revenue to the government as the

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<sup>10</sup> B.M. Munde, *Perspective of GST (Goods and Service Tax) in India*, 5 INT’L J. INNOVATIVE RESEARCH IN SCIENCE, ENGINEERING & TECH. (2016).

margin of tax base reduces considerably.<sup>11</sup> However, the 2017 Act has, in a way, overcome this challenge to a great extent by fixing the general threshold limit as 20 Lacs and 10 Lacs for some states.<sup>12</sup> In the 32<sup>nd</sup> GST Council Meeting, this threshold has been increased to 40 Lacs and 20 Lacs in case of sale of goods w.e.f. April 1, 2019.<sup>13</sup>

Secondly, the taxes that are generally included in GST would be excise duty, service tax countervailing duty, cess and state level VATs among others. However, there are several other state and union taxes that have still not be included within the ambit of GST such as tax on alcoholic liquor, entertainment tax levied by local authorities, electricity tax etc.<sup>14</sup> Thus, this goes against the ‘One nation, One tax’ concept and creates issues during calculation of input tax credit as well.

## 2. GST AND COMPETITION LAW: INTERPLAY

Competition can be described as a struggle for dominance, and in the commercial arena, it portrays striving for customers and businesses in the market.<sup>15</sup> The anti-trust law consists of rules that are intended to protect the process of competition in order to maximize consumer welfare. It is presumed that competition between firms will boost the overall efficiency of the economy, thus, resulting in reduced prices for the

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<sup>11</sup> Harvinder Bhalla, *Goods and Services Tax (GST): Impact, Challenges and Opportunities*, INT’L J. OF BUSINESS MGMT. & SCIENTIFIC RESEARCH (2017).

<sup>12</sup> Central Goods and Services Tax Act, 2017, § 22.

<sup>13</sup> *Decisions taken by GST Council in its 32 Meeting on 10.01.2019*, TAX GURU (Jan. 11, 2019), <https://taxguru.in/goods-and-service-tax/decisions-gst-council-32-meeting-10-01-2019.html>.

<sup>14</sup> *supra* note 10.

<sup>15</sup> RICHARD WHISH, *COMPETITION LAW* 3 (2009).

consumers.<sup>16</sup> It also has the effect of improving the quality of goods because firms will be persuaded to produce more efficiently in order to compete with their rivals.

## 2.1 IMPOSITION OF GST: ISSUES WITH COMPETITION LAW?

Although GST is expected to eventually bring down prices, it would not be possible unless there is a check on the activities of the firms. As businesses work with the objective of profit maximization, they would enjoy unjust enrichment arising out of implementation of Goods and Services Tax in India<sup>17</sup> and not pass the benefit to the consumers.

For instance, suppose original price of a food item in a non-AC restaurant is Rs. 50, on which its profit was Rs. 20. Before GST, taxes such as VAT, service tax, cess etc. were added and the price reached to Rs. 70. Post-GST implementation, if both CGST and SGST on that food item is 6% (hypothetical), the price of the food item will be Rs. 56, thereby resulting in a Rs. 14 profit to the consumer. However, global experiences from Australia, New Zealand, etc. denote that this does not actually happen. This is due to the fact that all businesses have a tendency of maximizing their profit.<sup>18</sup> Therefore, if instead of keeping the original price as 50, he might increase it to Rs. 60, thereby increasing his profit by Rs. 10. The customers due to lack of awareness or inability to do anything would pay Rs. 67.2 (after charging CGST and SGST on Rs. 60) when they can simply pay Rs. 56.

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<sup>16</sup> Vijay Singh, *Competition Law and Policy in India*, 4 NUJS L. REV. (2011).

<sup>17</sup>*Id.*

<sup>18</sup> Lee Heng, *Anti-Profiteering Clause: Good or Bad?*, SOCIO-ECON. RESEARCH CENTRE J. (2009).

## 2.2 SOLUTION TO THE PROBLEM

Section 171 of the GST Act provides that it is necessary to pass on the benefit of reduction in tax rate or from input tax credit to the consumers, by means of proportionate reduction in prices. This provision is popularly termed as the ‘anti-profiteering clause’ of GST. Deriving authority from this clause, a National Anti-Profiteering Authority has been established to ensure that the benefits that accrue to entities due to decrease in costs are passed on to the consumers and the businesses that hike rates enormously, citing GST as the reason are penalized.<sup>19</sup> The National Anti-Profiteering Authority (NAPA) is authorized to take *suo moto* cognizance of the apparent price exploitation done by an entity due to which the benefits of the reduced taxation are not being transferred to the end customer. Thereafter, a detailed investigation is conducted in accordance with Rule 129(6) of the CGST Rules, 2017 and a report is submitted by the Director General of Anti-Profiteering to NAPA.<sup>20</sup> Based on the investigation and applicable law, the National Anti-Profiteering Authority passes an order in the matter. This process is like the mechanism adopted under the Competition Act, 2002.

Several countries such as Australia and Singapore witnessed a substantial rise in inflation immediately after implementing their respective GST laws.<sup>21</sup> However, countries like Malaysia prevented such a

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<sup>19</sup> S.K. Lokeshwarri. *All you wanted to know about...anti-profiteering under GST*, THE HINDU BUSINESS LINE (Aug. 20, 2017) <http://www.thehindubusinessline.com/opinion/columns/slate/antiprofitteering-under-gst/article9737571.ece>.

<sup>20</sup> Central Goods and Services Tax Rules, 2017, rule 129(6),

<sup>21</sup> Abbas Valadkhani, *Quantifying the Effect of GST on Inflation in Australia 's Capital Cities: An Intervention Analysis* 37 AUSTRALIAN ECON. REV. (2004).

surge by implementing anti-profiteering laws, which was later also done by Australia. Thus, with an anticipation of similar results, India has included an anti-profiteering clause in its GST legislation itself. In the next section, the anti-profiteering legislation of Australia has been discussed in order to highlight the significance of the anti-profiteering clause.

### 3. ANTI-PROFITEERING LEGISLATIONS ABROAD: CASE STUDY OF AUSTRALIA

Australia introduced Goods and Service Tax law in 2000, thereby replacing a number of existing indirect taxes to unify the taxation system into one. The Australian Competition and Consumer Commission was entrusted with the responsibility of overseeing the pricing responses to the GST and acting against businesses on that basis. Thus, the businesses that adjusted prices inconsistent with tax rate changes resulting from the GST implementation were covered in this ambit.<sup>22</sup> The transition period of Australia was three years during which time, the ACCC performed a plethora of functions.

The following were the statutory responsibilities on the ACCC:

1. *Formulating guidelines about what constitutes price exploitation;*
2. *Seeking information from businesses to successfully monitor the movements of prices;*
3. *Issuing notice to the businesses in case they exploit prices for attaining greater benefit;*
4. *Seeking penalties before the federal court for breach of price exploitation provision by businesses and individuals;*

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<sup>22</sup> R. Nair Sthanu, *Price Monitoring and Control under GST*, 52 ECON. & POLITICAL WEEKLY (2017).

5. *Accepting undertakings from the businesses which are enforceable in a court;*
6. *Investigating upon complaints and issues of public concern;*
7. *Providing information to both businesses and public on price exploitation provisions.*<sup>23</sup>

Therefore, in Australia, the existing Competition Commission was entrusted with the responsibility of taking care of the anti-profiteering concerns, unlike India, where a separate institution called the NAPA has been established for this purpose.

The Australian Competition and Consumer Commission has taken up a significant number of tasks in order to crystallize the idea of instituting an anti-profiteering clause. Firstly, they defined the ambit of the term ‘price exploitation’ by enlisting specific criteria for constituting price exploitation.<sup>24</sup> Secondly, in order to check price exploitation, large corporates with turnovers were called forward to offer a Public Compliance Commitment (PCC) to the ACCC on a voluntary basis.<sup>25</sup> The Australian Competition and Consumer Commission gathered information related to prices from the market for numerous goods and services. Thereafter, it compared the prices both prices prior to and subsequent to the introduction of GST, by way of specifically commissioned surveys of retail prices.<sup>26</sup>

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<sup>23</sup> Competition and Consumer Act, 2010, Part VB (Australia); ALLAN FELS, ACCC OVERSIGHT OF PRICING RESPONSES TO THE INTRODUCTION OF THE NEW TAX SYSTEM, Australian Competition and Consumer Comm’n (2003).

<sup>24</sup> *Id.*

<sup>25</sup> *supra* note 22.

<sup>26</sup> REPORT ON ACCC PRICE SURVEYS: PRELIMINARY POST-GST PRICE CHANGES, REPORT ON ACCC PRICE SURVEYS: PRELIMINARY POST-GST PRICE CHANGES 33 (2000).

All these measures led to a strong anti-competitive regime in Australia wherein the benefits of the GST system were accrued by the consumers. According to the GST Final Report titled ‘ACCC oversight of pricing responses to the introduction of the new tax system’, the Commission obtained refunds of around \$21 million for the benefit of around two million consumers in the transition period of three years.<sup>27</sup>

Thus, clarity of the legal position and precisely laying down the definitions of important terms not only indicates superior legal policy, but also helps in the efficient and effective implementation of the letter and spirit of the law.

In India, the National Anti-Profiteering Authority has not carved out the precise meaning and interpretation of ‘price exploitation’. Section 171 of the CGST Act, 2017 simply states that any reduction in tax rate or benefit of ITC is required to be passed on to the end consumers through a ‘commensurate reduction in prices.’ Thus, the culpability of any entity would be dependent upon the interpretation of the term ‘commensurate reduction of prices’ and the same has not been defined in the Act.<sup>28</sup> Instead, the matters are decided on a case-to-case basis supported by the investigations. Further, inviting large corporates to submit Public Compliance Commitments is a useful mechanism for checking compliance. As observed in Australia, corporates submit PCCs in order to

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<sup>27</sup> *supra* note 23.

<sup>28</sup> Shikha Bhardwaj and Aseem Chawla, *India: Anti-Profiteering Mechanism And Commensurate Price Reduction - A Fine Balancing Act*, MONDAQ (Dec. 21, 2017) <http://www.mondaq.com/india/x/658356/sales+taxes+VAT+GST/AntiProfiteering+Mechanism+And+Commensurate+Price+Reduction+A+Fine+Balancing+Act>.

enhance their public image and reputation, which leads to consumer awareness as well.

#### 4. THE INDIAN REGIME: NAPA AND ITS RULINGS

The primary objective of the GST is to eliminate the cascading effect of the existing tax regime. The continuous credit system has been formulated keeping the consumer in mind and removes inefficiencies in the supply chain.<sup>29</sup> The anti-profiteering mechanism in the GST Act has been incorporated in order to ensure that the profit of the lessor input cost due to tax efficiencies is shared with consumers and not reserved as excess profits.<sup>30</sup> In *Dinesh Mohan Bhardwaj Proprietor, M/S U.P. Sales v. Services Versus M/S Vrandavaneshwree*, the NAA laid down three questions on the basis of which it can be determined by the concerned authority whether contravention of Section 171 has taken place or not - (i) whether rate of tax had been reduced post-GST, (ii) whether there was substantial reduction in the rate of tax and (iii) if yes, whether the benefit was passed on to the consumers.<sup>31</sup>

It is pertinent to note that the success of the GST depends upon the efficiency with which the anti-profiteering clause is implemented in India and the way the National Anti-Profiteering Authority functions for implementing the provision. Having realized the significance of NAPA, a pertinent issue that arises is whether NAPA has been able to fulfil its

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<sup>29</sup> Shubhang Setlur, *Behind GST's Anti-Profiteering Provisions, a Legacy of Indian Socialism*, THE WIRE (2017), <https://thewire.in/153989/gsts-anti-profiteering-provisions-Indian-socialism/> (last visited Dec. 26, 2018).

<sup>30</sup> *Overview on GST*, KHAITAN & CO., [https://www.khaitanco.com/PublicationsDocs/Legal\\_Era\\_Magazine\\_Feb2017.pdf](https://www.khaitanco.com/PublicationsDocs/Legal_Era_Magazine_Feb2017.pdf).

<sup>31</sup> *Dinesh Bhardwaj v. Services Versus M/S Vrandavaneshwree*, 2018 (4) TMI 1377.

functions properly? The answer to this question cannot be affirmative owing to the following problems that have been associated with the NAPA and its working:

- **Absence of procedure and methodology:** As mentioned above, Section 171 does not define the term ‘commensurate reduction in prices’. Thus, it is upon the NAPA to interpret the same. Various orders of the authority have been regarded as “arbitrary” as no precise methodology has been determined by it to ascertain whether there is profiteering or not. Pyramid Infratech, Hindustan Unilever and Hardcastle Restaurants Pvt. Ltd. have filed writs challenging NAPA orders due to such arbitrariness.<sup>32</sup>
- **Lack of homogeneity in orders:** Not only is there no specific definition of profiteering, reliance cannot be placed on the previous NAA rulings owing to the inconsistency that exists. For instance, in *Ravi Charaya v. Hardcastle Restaurants*,<sup>33</sup> the NAA refused to consider market conditions, rising of input costs, increase in expenditure on electricity, fuel, rent, royalty, commissions, etc. while determining profiteering.<sup>34</sup> However, in *Kumar Gandharv v. KRBL Limited*,<sup>35</sup> the NAA had itself considered the increase in input costs i.e. paddy while determining that the respondent had not contravened Section 171 of the CGST Act.

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<sup>32</sup> Sachin Dave, *Pyramid Infra goes to court over GST anti-profiteering mechanism*, ECONOMIC TIMES (Oct. 13, 2018) <https://economictimes.indiatimes.com/industry/banking/finance/pyramid-infra-goes-to-court-over-gst-anti-profiteering-mechanism/articleshow/66190024.cms>

<sup>33</sup> *Ravi Charaya v. Hardcastle Restaurants*, (2018) 11 TMI 1073.

<sup>34</sup> *Id.*

<sup>35</sup> *Kumar Gandharv v. KRBL Ltd.*, 2018 (5) Tmi 760.

- **Excessive delegation and constitutional validity:** The principle of excessive delegation as laid down in *Harishankar Bagla v. State of Madhya Pradesh*,<sup>36</sup> is that delegation of authority is valid only where the legislature lays down a principle which is clear and offers sufficient guidance. It is submitted that in the absence of guidance with respect to interpretation of ‘commensurate reduction in prices’, excessive authority has been delegated to the NAPA. Moreover, recently, Pyramid Infratech has challenged the constitutional validity of the NAPA on the grounds that owing to its arbitrary orders, fundamental rights of citizens are being violated.<sup>37</sup>
- **Excessive control over pricing:** The purpose of the NAA is to ensure the benefit of the consumers. However, in doing so, it is restricting the businesses and the market from setting prices, curbing their freedom of trade.

Thus, the NAPA has been widely criticized owing to the aforementioned defects in its functioning.

## 5. PROFITEERING THE ANTI-TRUST WAY: THE WAY FORWARD

The shortcomings of the NAPA suggest that it would be best to let competition set pricing, as in the pre-GST regime. It is better to rely on the competitive strength of the economy to let product prices find the levels that consumers and producers find acceptable and on the institution of the Competition Commission of India to ensure that market power is not

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<sup>36</sup> *Harishankar Bagla v. State of Madhya Pradesh*, 1954 AIR 465.

<sup>37</sup> *supra* note 32.

abused to distort competition. The Competition Commission with a mandate to protect the consumer from industry cartelization has been fully functional for eight years now and has earned a good reputation for itself.

The increasing number of complaints in the CCI suggest that entities have faith on the regulator to perform its functions.<sup>38</sup> The competition regulator investigates anti-trust violations in various fields including real estate, education, entertainment, steel, maritime and shipping, travel industry etc.<sup>39</sup> The Commission has been appreciated on various occasions for its approach that has resulted in optimum resource utilization and effectively redressal of market problems.<sup>40</sup>

Owing to such considerations, it is strongly recommended that this anti-profiteering measure should be regulated by the Competition Commission of India, like the case of Australia.

## 6. CONCLUSION

The Central Goods and Services Act, 2017 is a fundamental and revolutionary modification in the Indian tax regime that is instrumental in unifying the taxation regime in India. Its interface with Competition law is visible through the anti-profiteering clause it holds under Section 171 of the said Act. The principal motive behind the anti-profiteering clause is to

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<sup>38</sup> Economic Laws Practice, *Has the Competition Commission of India (CCI) been an effective regulator?*, LEGALLY INDIA (July 18, 2017), <https://www.legallyindia.com/home/has-the-competition-commission-of-india-cci-been-an-effective-regulator-20170718-8664>.

<sup>39</sup> Preetam Kaushik, *The Importance of Being Competition Commission of India*, BUSINESS INSIDER (Jan. 2, 2015), <https://www.businessinsider.in/the-importance-of-being-competition-commission-of-india/articleshow/45728183.cms>.

<sup>40</sup> Anshuman Sakle, *CCI's Roulette with Remedies*, CYRIL AMARCHAND MANGALDAS (Apr. 17, 2017), <https://competition.cyrilamarchandblogs.com/2017/04/ccis-roulette-remedies/>.

ensure that the benefits accruing from GST are brought to the consumers.

The GST legislation supports ‘profit’ but opposes ‘profiteering.’

As GST has also been implemented in other countries such as Australia, this research paper highlighted significant aspects of the legislation operating in it. Its structure is different from India to some extent, but its experiences would provide the Indian government a chance to learn from its mistakes. The Australian Government did not create a separate council or institution for GST implementation, but instead entrusted the existing Australian Competition and Consumer Commission with this responsibility. Looking at the success of the ACCC, it is contended that India should adopt the same model as an inexperienced body like NAPA may not be able to perform as efficiently as the Competition Commission of India.

Thus, India believes that implementation of anti-profiteering clause along with GST would curb the inflation or surge of prices that was faced by these nations. However, a principal concern with the GST implementation in India remains that till now only the manner of usage of anti-profiteering clause has been defined and not the manner of identifying the firms which result in this. As mentioned earlier, this has led to a vast array of litigation which may determine the future of the National Anti-Profiteering Authority.

A lot of people have apprehensions regarding the anti-profiteering clause as they believe that it would become a mode of exploitation by the police and other powerful authorities. On the other hand, some consumers appreciate this provision as they believe it is protecting their interests and

welfare. Only the subsequent years will highlight the success or failure of  
this legislation.